

The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

LAWRENCE HARTFORD; DOUGLAS  
MITCHELL; BRETT BASS; SPORTING  
SYSTEMS VANCOUVER, INC.; SECOND  
AMENDMENT FOUNDATION, INC.; AND  
FIREARMS POLICY COALITION, INC.,

Plaintiffs,

v.

BOB FERGUSON, in his official capacity as  
Washington State Attorney General, et al.,

Defendants.

NO. 3:23-cv-05364-RJB

STATE DEFENDANT’S OPPOSITION TO  
WASHINGTON GUN RIGHTS MOTION  
FOR LEAVE TO FILE AMICUS BRIEF

NOTED FOR: June 9, 2023

**I. INTRODUCTION AND RELIEF REQUESTED**

State Defendants object to the untimely filed Motion to File Brief of Amicus Curiae. On May 19, 2023, 15 days after Plaintiffs’ Motion for Preliminary Injunction (Dkt. #10) was filed, Proposed Amici Washington Gun Rights and The American Firearms Association filed their motion for leave to file an amicus brief (Dkt. #34). But Federal Rule of Appellate Procedure 29(a)(6) requires that any brief be filed “no later than 7 days after the principal brief of the party being supported is filed.” This Court should deny Proposed Amici’s motion to file an untimely amicus brief.

## II. ARGUMENT

In the absence of a local civil rule governing amicus briefs, courts of this district frequently “adhere to the applicable rules found in the Federal Rules of Appellate Procedure,” *Microsoft Corp. v. United States Dep’t of Justice*, No. C16-0538JLR, 2016 WL 4506808, at \*9 (W.D. Wash. Aug. 29, 2016); accord *Ctr. For Biological Diversity v. U.S. EPA*, No. C13-1866JLR, 2014 WL 636829, at \*10 (W.D. Wash. Feb. 18, 2014); *Correll v. United States*, No. C07-460RSL, 2007 WL 4209424, at \*2 (W.D. Wash. Nov. 26, 2007). Federal Rule of Appellate Procedure (FRAP) 29(a)(6) requires that “[a]n amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed.” Although the “court may grant leave for later filing,” this is generally disfavored. *Fry v. Exelon Corp. Cash Balance Pension Plan*, 576 F.3d 724, 725 (7th Cir. 2009) (“The court has discretion to accept an untimely filing when the value of the potential amicus brief justifies the inconvenience of requiring the judges to review a case multiple times.”); *LaRue v. DeWolff, Boberg & Assocs., Inc.*, 458 F.3d 359, 361 (4th Cir. 2006) (late submission of amicus brief “affords neither the litigants or this court a proper chance to review the case in [a] single, rather than piece-meal, fashion”).

On May 4, 2023, the Plaintiffs filed their Motion for Preliminary Injunction. Dkt. #10. More than two weeks later, on May 19, 2023, WGR filed a Motion Requesting Leave to File an Amicus Brief in this case. Dkt. #34. Under FRAP 29(a)(6)’s deadline, Proposed Amici’s Motion would have been due on May 11, 2023. Instead, Proposed Amici waited until May 19, more than a week after the deadline, before moving for leave to participate as Amici. Because their late submission is untimely under FRAP 29(a)(6), it should be denied.

1 DATED this 5th day of June, 2023.

2 ROBERT W. FERGUSON  
3 Attorney General

4 s/ William McGinty  
5 ANDREW R.W. HUGHES, WSBA #49515  
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**DECLARATION OF SERVICE**

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court's CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 5th day of June, 2023, at Seattle, Washington.

s/ Andrew R.W. Hughes

ANDREW R.W. HUGHES, WSBA #49515  
Assistant Attorney General